

DA 09-0500

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

IN THE SUPREME COURT OF THE STATE OF MONTANA

FILED

FEB - 2 2010

LON PETERSON,

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

Plaintiff/Appellant and Cross-Appellee,

v.

ST. PAUL FIRE & MARINE INSURANCE COMPANY,

Defendant/Appellee and Cross-Appellant.

**PLAINTIFF/APPELLANT and CROSS-APPELLEE PETERSON'S
MOTION TO FILE OVER-LENGTH BRIEF**

On Appeal from the District Court of the Eighth Judicial District
Hon. Julie Macek

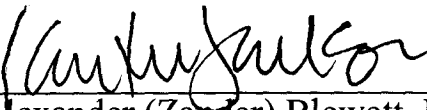
COMES NOW, the above-named Plaintiff, Appellant, and Cross-Appellee, Peterson pursuant to Rule 12(10), M.R.App.P., and moves this Court for an order allowing him to file an over-length reply brief. The reason for this motion is that because of St. Paul's cross-appeal and the amicus brief supporting St. Paul's position, Peterson was required to combine his reply brief in support of his appeal, his response brief in opposition to St. Paul's cross-appeal, and his response to the amicus position, in one 5,000 word brief.

Peterson was not able to accomplish all of this in the allowable 5,000 words for a reply brief and has, therefore, lodged a separate response to the amicus position with the Clerk. This separately bound brief is only 417 words and

Peterson's combined three briefs only exceed the 5,000 maximum by a total of 394 words. Therefore, Peterson respectfully requests permission to have the clerk file the separately bound response to the amicus position. This motion is supported by the attached Affidavit. Opposing counsel for both St. Paul and the amicus have been contacted and do not oppose this motion.

DATED this 1st day of February, 2010.

HOYT & BLEWETT PLLC

By: 
Alexander (Zander) Blewett, III
Kurt M. Jackson
P.O. Box 2807
Great Falls, MT 59403-2807
Attorneys for Plaintiff/Appellant
and Cross-Appellee

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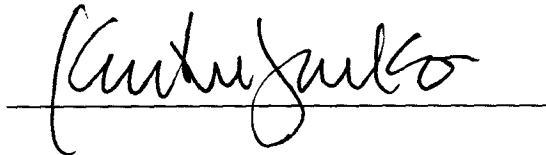
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CERTIFICATE OF SERVICE

I do hereby certify that on this 1st day of February, 2010, I mailed a true and correct copy of the above and foregoing through the United States Postal Service, postage prepaid, to the following:

Guy W. Rogers, Esq.
Matthew I. Tourtlotte, Esq.
BROWN LAW FIRM, P.C.
315 North 24th Street
P.O. Drawer 849
Billings, MT 59103-0849

John T. Dyre
CROWLEY FLECK PLLP
500 Transwestern Plaza II
490 North 31st Street
P.O. Box 2529
Billings, MT 59103-2529

A handwritten signature in dark ink, appearing to read "Andrew Gulko", is written over a horizontal line.

DA 09-0500

IN THE SUPREME COURT OF THE STATE OF MONTANA

LON PETERSON,

Plaintiff/Appellant and Cross-Appellee,

v.

ST. PAUL FIRE & MARINE INSURANCE COMPANY,

Defendant/Appellee and Cross-Appellant.

**AFFIDAVIT OF KURT M. JACKSON
IN SUPPORT OF MOTION TO FILE OVER-LENGTH BRIEF**

On Appeal from the District Court of the Eighth Judicial District
Hon. Julie Macek

STATE OF MONTANA)
 : ss.
County of Cascade)

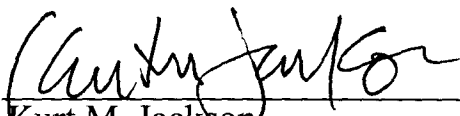
1. I am one of the attorneys representing Plaintiff, Appellant and Cross-Appellee Peterson in the above-referenced appeal.
2. Peterson was not able to combine his reply brief in support of his own appeal, his response brief in opposition to St. Paul's cross-appeal and his position in response to the amicus position in one 5,000 word brief.
3. There is not a corresponding amicus supporting Peterson's position, which could have responded to the amicus supporting St. Paul's position and,

therefore, Peterson was forced to combine his position in the one 5,000 word reply brief.

4. The separately bound brief in response to the position of amicus is only 417 words long and Peterson's combined briefs only exceed the 5,000 word maximum by 394 words.

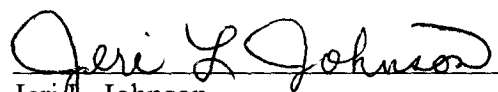
DATED this 1st day of February, 2010.

HOYT & BLEWETT PLLC

By: 
Kurt M. Jackson
P.O. Box 2807
Great Falls, MT 59403-2807

SUBSCRIBED and SWORN TO before me this 1st day of February, 2010.




Jeri L. Johnson
NOTARY PUBLIC for the State of Montana
Residing at Great Falls, Montana
My Commission expires May 28, 2011